

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

COLUMBUS LIFE INSURANCE COMPANY,

Plaintiff,

v.

WILMINGTON TRUST, N.A., as Securities
Intermediary,

Defendant.

C.A. No. 20-735-JLH

ORDER

For the reasons stated on the record during the conference today, **IT IS ORDERED** that:

1. Plaintiff Columbus Life Insurance Company's Motion for Summary Judgment (D.I. 140) is further¹ GRANTED-IN-PART and is DENIED-IN-PART:

a. Plaintiff's request for summary judgment on Count IV of Defendant Wilmington Trust, N.A.'s Counterclaims is DENIED with respect to Defendant's request for a return of insurance premiums paid by Viva Capital Trust (the current owner of the beneficial interest of the policy at issue) pursuant to the standards set forth in the Restatement (Second) of Contracts §§ 197, 198, and 199(b). *See Geronta Funding v. Brighthouse Life Ins. Co.*, 284 A.3d 47, 72 (Del. 2022) ("[W]hen analyzing a viable legal theory that seeks as a remedy the return of premiums paid on insurance policies declared void *ab initio* for lack of an insurable interest, Delaware courts shall analyze the exceptions outlined in Sections 197, 198, and 199 of the Restatement and determine whether any of those exceptions permit the return of the premiums.").

¹ The Court previously granted summary judgment to Plaintiff on Counts I and II of Plaintiff's Complaint and on Counts I and II of Defendant's Counterclaims. (D.I. 196.)

b. Plaintiff's request for summary judgment on Count IV of Defendant Wilmington Trust, N.A.'s Counterclaims is otherwise GRANTED.

2. Defendant's motion for summary judgment (D.I. 141) is DENIED.

Dated: September 25, 2023



Jennifer L. Hall
UNITED STATES MAGISTRATE JUDGE